

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CRAIG WILLIAMS,)
Plaintiff,) Civil Action No. 12 – 1213
v.) District Judge Mark R. Hornak
LT. ARMSTRONG, *et al.*,) Chief Magistrate Judge Lisa Pupo Lenihan
Defendants.)

MEMORANDUM ORDER

Pending before the Court is Defendants' Motion to Dismiss (ECF No. 29) and the Report and Recommendation of Chief Magistrate Judge Lenihan (ECF No. 49) who, on November 14, 2013, recommended that the Motion to Dismiss be granted. She further recommended that, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), the Court *sua sponte* dismiss Defendant John Doe even though he has not yet been identified and served. The parties were served with the Report and Recommendation and informed that they had until December 2, 2013, to file written objections. Plaintiff filed objections on November 27, 2013. (ECF No. 51).

Upon thorough evaluation of Plaintiff's objections and the magistrate judge's Report, the Court finds that the objections do not undermine her recommendation that Defendants' Motion to Dismiss be granted and that Defendant John Doe be dismissed. Therefore, after *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the objections thereto, the following order is entered.

AND NOW, this 2nd day of December, 2013,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss (ECF No. 29) is **GRANTED**.

IT IS FURTHER ORDERED that Defendant John Doe is *sua sponte* **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 49) dated November 14, 2013, is **ADOPTED** as the opinion of the Court.¹

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:



Mark R. Hornak
United States District Judge

cc: Craig Williams
BX-9919
SCI Albion
10745, Route 18
Albion, PA 16475-0001
(*Via First Class Mail*)

Counsel of Record
(*Via ECF Electronic Mail*)

¹ The Court adopts the Chief Magistrate Judge's Report and Recommendation as to the conditions of confinement claims by this Plaintiff on the facts alleged in the context of this action. ECF No. 49 at 10. Whether some of the conditions of confinement complained of by the Plaintiff at ECF No. 10-1 may be objectively serious enough in another overall factual context so as to implicate constitutional protections is a matter for another day.